

Kevin D. Swartz, WSBA #32609  
Olsen, Olsen & Daines, LLC  
PO Box 12829  
Salem, OR 97309-0829  
(503) 362-9393

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON IN TACOMA

IN RE:  
Steven Scott Stanley,  
Bettina Lynn Stanley,  
Debtors,  

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Steven Scott Stanley,  
Bettina Lynn Stanley,  
Plaintiffs,  
v.  
HSBC Mortgage Services,  
Defendant.  
Case No. 10-46874-bdl13  
Adv. Proc. No.  
COMPLAINT

Plaintiffs, Steven and Bettina Stanley, by and through their attorney, Kevin D. Swartz, allege the following:

1.

This Adversary Proceeding is one arising out of the debtors' bankruptcy case number 10-46874-bdl13, filed under Chapter 13 of Title 11, now pending in this Court. This Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. § 157, § 1334, and 11 U.S.C. § 523(b). This is a core proceeding under 28 U.S.C. § 157(b).

2

1           Defendant, HSBC Mortgage Services, herein after HSBC, is authorized to conduct  
2 business under the laws of the United States.

3.

4           Debtors filed Chapter 13 bankruptcy on August 20, 2010.

5.

6           Plaintiffs-debtors listed an interest in real property on Schedule A, legal description:

7           ALL THAT CERTAIN PROPERTY SITUATED IN THE COUNTY OF  
8 PIERCE AND STATE OF WASHINGTON, BEING DESCRIBED AS  
9 FOLLOWS: LOT1, BLOCK 3, MOUNT-NARROW FIRST ADDITION,  
10 ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 21  
11 OF PLATS, PAGE 22, IN PIERCE COUNTY WASHINGTON.

12           commonly known as 7402 South 15<sup>th</sup> Street, Tacoma, WA 98465, with a value of  
13 \$268,000.00. See attached Exhibit A – CMA. The real property is situated in Pierce  
14 County, Washington. This interest in real property is an interest of the bankruptcy estate.

15           5.

16           There are two secured claims against Plaintiffs' real property: MBNA America  
17 (Delaware), N.A., hereinafter MBNA, in the amount of \$337,851.19, see attached Exhibit  
18 B – POC MBNA, and HSBC in the amount of \$59,608.60, see attached Exhibit C – POC  
19 HSBC.

20           6.

21           The first lien of MBNA is a consensual promissory note secured by a deed of trust  
22 against the real property. The deed of trust was duly and properly recorded. The deed of  
23 trust exists in the first position, and is superior to the second lien of HSBC.

24           7.

25           The second lien of HSBC arises out of a consensual promissory note secured by a  
26 deed of trust against the real property. The deed of trust was duly and properly recorded.  
27 The deed of trust exists in second position and is junior to the first lien of MBNA.

28           8.

The value of the property does not exceed the amount owed on the first lien to MBNA.

9.

Pursuant to 11 U.S.C. § 506(a), the Court may bifurcate the value of the creditor's interest in the estate's interest in the property into a secured claim and unsecured claim. HSBC's second lien interest in the real property is a wholly unsecured claim.

10.

Pursuant to 11 U.S.C. § 1322(b)(2), plaintiffs may, in their plan, modify the rights of holders of unsecured claims.

WHEREFORE, plaintiffs pray for relief as follows:

1. That the value of the real property is found to be \$268,000.00 AND
  2. That HSBC's second lien interest in the real property is a wholly unsecured claim  
AND
  3. Requiring HSBC to execute such documents as are necessary to remove their lien  
from the property records of Pierce County, Washington unless plaintiffs' Chapter  
13 is dismissed or converted to a proceeding under another Chapter of Title 11 of  
the United States Code AND
  4. For plaintiffs' costs and disbursements incurred herein AND
  5. For such other relief as the Court deems appropriate.

DATED this 12<sup>th</sup> day of November, 2010.

By /s/ Kevin D. Swartz  
Kevin D. Swartz, WSBA #32609  
Attorney for Plaintiffs